

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DELLAMORTE LLC,

Plaintiff,

- v -

SHEIN DISTRIBUTION CORP., and SHEIN US
SERVICES, LLC

Defendants.

No.

COMPLAINT

Jury Demand

Plaintiff Dellamorte LLC alleges as follows against Defendant Shein Distribution Corp. and Shein US Services, LLC:

SUMMARY OF THE CASE

1. This is an action for copyright infringement.
2. Plaintiff Dellamorte LLC (“Dellamorte”) is a home decor brand based out of New Jersey.
3. Dellamorte designs, manufactures, markets, and sells home decor.
4. Defendants Shein Distribution Corp. and Shein US Services, LLC (collectively “Shein”) are United States operating companies of a China-based global conglomerate that conducts substantial e-commerce business in New Jersey and within this District.
5. As described below, Shein illegally manufactures and sells cheap, low-quality copies of Plaintiff’s original, copyrighted “Anatomical Heart Vase” design (defined below).
6. Shein is not authorized to sell copies of Plaintiff’s copyrighted Anatomical Heart Vase design.

7. Plaintiff therefore seeks damages and other relief under the Copyright Act. (17 U.S.C. §§ 101 *et seq.*)

PARTIES

8. Plaintiff Dellamorte is a corporation formed under the laws of the State of New Jersey with its principal place of business and headquarters in Fair Lawn, New Jersey.

9. Plaintiff designs, manufactures, and sells its home decor under the DELLAMORTE & CO. registered trademark. Dellamorte home decor is sold throughout the United States and around the world.

10. Defendants Shein Distribution Corp. is a corporation formed under the laws of the State of California with its principal executive office at 757 S Alameda St Ste 220, Los Angeles, California.

11. Defendants Shein US Services, LLC is a corporation formed under the laws of the State of Delaware with its principal executive office at 757 S Alameda St Ste 220, Los Angeles, California.

12. Defendants Shein Distribution Corp. and Shein US Services, LLC infringed Plaintiff's rights under the Copyright Act by reproducing and selling copies of Plaintiff's original work.

13. Upon information and belief, Shein obtained Plaintiff's work via Plaintiff's website and elsewhere on the internet, then mass-produced and sold low-quality copies without Plaintiff's permission.

14. Upon information and belief, Shein is the seller and payment collection entity for the global Shein group's products and services made available to customers in the United States, including customers in this District.

15. Shein markets, distributes and sells copies of Dellamorte original copyrighted

design of its ANATOMICAL HEART VASE, which Defendant produces and sells as “Heart Organ Shaped Flower Vase” through its websites (including <http://www.shein.com>) that are directed at and intended for commercial use by persons in this District.

16. Upon information and belief, Shein contracted to ship and to supply goods, including the counterfeit copies of Plaintiff Dellamorte’s original copyrighted home decor described in this Complaint, to persons in New Jersey.

17. Upon information and belief, Shein shipped and caused to be shipped goods, including the counterfeit copies of Dellamorte’s original copyrighted home decor described in this Complaint, to persons in New Jersey.

18. On information and belief, other persons or entities whose identities are not yet known to Plaintiff — including Shein group affiliates — engaged in or contributed to the unlawful conduct alleged in this Complaint. Plaintiff will seek leave of Court to assert claims against such persons or entities when they become known.

JURISDICTION AND VENUE

19. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this claim arises under the Copyright Act, 17 U.S.C. §§ 101 *et seq.*

20. Venue is proper under 28 U.S.C. § 1400(a); alternatively, venue is proper under 28 U.S.C. § 1391(b).

21. This Court has personal jurisdiction over Shein because they transact business in New Jersey, including by marketing and offering for sale infringing copies of

Plaintiff's copyrighted designs to persons in New Jersey; by contracting to sell infringing copies of Plaintiff's copyrighted designs to persons in New Jersey; by distributing and delivering infringing copies of Plaintiff's copyrighted designs to persons in New Jersey; by operating a warehouse in New Jersey; and by operating interactive websites, apps and social media pages for use by and directed at consumers and other persons in New Jersey.

FACTUAL ALLEGATIONS

22. Michael Locascio, ("Locascio") an innovator in the design, creation, and marketing of home decor, is the founder and principal of Dellamorte, the Plaintiff in this action.

23. Locascio is an artist and a sculptor who studied classical sculpture at the Cathedral of St. John the Divine and the Newington Cropsey Foundation.

24. Locascio developed a unique style based in part on his training in anatomy and his study of live models, skeletons, and dissections.

25. Seeking to design and create pieces of home decor that combine elements of wit and whimsy with elegant materials and superior craftsmanship, Michael Locascio founded the home decor company Dellamorte in New Jersey in 2010.

26. Plaintiff Michael Locascio creates exclusive home decor collections using elegant, top-quality materials under the registered U.S. trademark DELLAMORTE & CO.

27. Each of Locascio's sculptures takes many hours to design and create.

28. Locascio sells his sculptures and products through Dellamorte.

29. Dellamorte's products are known for lifelike depictions that reflect an appreciation for the macabre, the mythic, and the unusual.

30. Plaintiff Dellamorte markets and sells its products through its own Etsy Shop, authorized retailers' stores, authorized retailers' ecommerce sites, and wholesale channels.

THE ANATOMICAL HEART VASE COPYRIGHT

31. Among Michael Locascio's home decor designs is the ANATOMICAL HEART VASE, an original design.

32. Michael Locascio created the ANATOMICAL HEART VASE in or about April 2014.

33. The ANATOMICAL HEART VASE is part of Plaintiff Dellamorte's home decor collection. A picture of anatomical heart vase appears below.



34. In or about late 2014, Plaintiff Michael Locascio first sold the original home decor design ANATOMICAL HEART VASE.

35. At all relevant times, Michael Locascio complied in all respects with the Copyright Act, 17 U.S.C. § 101, *et seq.*, and secured the exclusive rights and privileges in and to the copyrights in the ANATOMICAL HEART VASE.

36. Michael Locascio received a Certificate of Registration from the United States

Copyright Office for the ANATOMICAL HEART VASE (Certificate No. VA 2-064-954), with an Effective Date of Registration of August 13, 2016, and a Date of First Publication of April 23, 2014. A copy of the Certificate of Registration is attached to this Complaint as Exhibit A.

37. Locascio assigned all rights in VA2-064-954 to Dellamorte, including the right to recover for past infringement.

38. Since its creation, Dellamorte's ANATOMICAL HEART VASE has been manufactured, marketed, and sold exclusively by Michael Locascio or under his authority through his company, Dellamorte.

39. Locascio through Dellamorte has expended and continues to expend a substantial investment of time, effort, and money, on the design, manufacturing, and marketing of its home decor featuring Dellamorte's ANATOMICAL HEART VASE design.

40. Dellamorte advertises its products, including its ANATOMICAL HEART VASE, on social media including Facebook, Pinterest, Instagram, Tumblr, and over the World Wide Web.

41. Dellamorte's ANATOMICAL HEART VASE have been sold through independent retailers, and on-line platforms such as Etsy, eBay, and Amazon to customers all over the world.

42. Dellamorte's customers and fans recognize Locascio's distinctive design and style in Dellamorte's ANATOMICAL HEART VASE.

43. As a result at least in part to Dellamorte's ANATOMICAL HEART VASE, Dellamorte has a large group of dedicated customers and fans on social media.

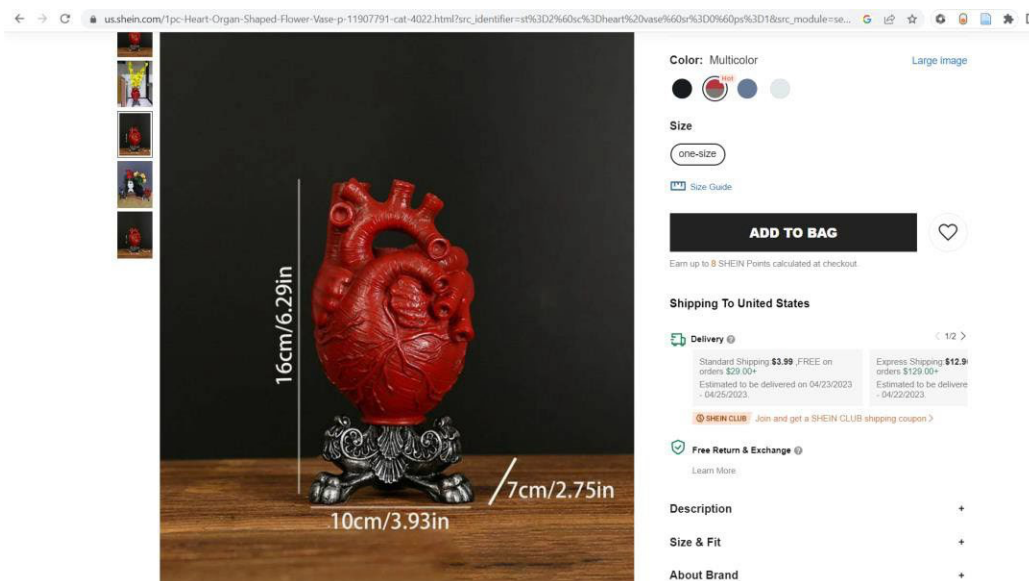
SHEIN'S INFRINGING ACTIVITIES

44. Shein advertises and sells home décor products that deliberately copy Plaintiff's copyrighted home decor design of the ANATOMICAL HEART VASE.

45. Shein has offered for sale unauthorized and infringing copies of Plaintiff's copyrighted home decor design of the ANATOMICAL HEART VASE, including on an e-

commerce storefront available to the public at <http://www.shein.com>.

46. Shein displayed Plaintiff's ANATOMICAL HEART VASE without authorization on its commercial website, as depicted here:



47. Shein's e-commerce website, www.shein.com, describes Plaintiff's ANATOMICAL HEART VASE as "1pc Heart Organ Shaped Flower Vase" (the "Infringing Product"), which Shein offers for sale for eight dollars.

48. Shein did not license the copyrighted home decor design of Dellamorte's ANATOMICAL HEART VASE from Plaintiff for commercial use or for any other purpose; and Shein is not authorized to use Plaintiff's work for any purpose.

49. Shein did not have Plaintiff's permission or consent to publish the copyrighted home decor design of the ANATOMICAL HEART VASE on its website or to reproduce the ANATOMICAL HEART VASE for commercial sale.

50. No one but Plaintiff is authorized to manufacture, import, export, advertise, offer for sale or sell its original copyrighted home decor design of the ANATOMICAL HEART VASE without Plaintiff's written permission.

51. Upon information and belief, Shein has received substantial revenues and profits as a result of its infringing and unlawful conduct, to which Shein is not entitled.

FIRST CAUSE OF ACTION – COPYRIGHT INFRINGEMENT

52. Plaintiff realleges each and every allegation contained in the foregoing paragraphs.

53. Shein infringed Plaintiff's copyright in the original home decor design of Dellamorte's ANATOMICAL HEART VASE by reproducing and publicly displaying Dellamorte's ANATOMICAL HEART VASE on the website <http://www.shein.com>.

54. Shein infringed Plaintiff's copyright in the original home decor design of Dellamorte's ANATOMICAL HEART VASE by reproducing, offering for sale, and selling unauthorized copies of the copyrighted home decor design of Dellamorte's ANATOMICAL HEART VASE.

55. Shein is not and has never been licensed to reproduce, display, distribute or use the copyrighted home decor design of Dellamorte's ANATOMICAL HEART VASE.

56. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and other exclusive rights in violation of the Copyright Act, *e.g.*, 17 U.S.C. §§ 106 and 501.

57. Upon information and belief, the foregoing acts of infringement by Shein are willful, intentional, and in knowing and deliberate disregard of Plaintiff's copyright.

58. As a direct and proximate result of the foregoing acts of infringement, Plaintiff is entitled to damages. 17 U.S.C. § 504(b).

59. Shein's copyright infringement, and the threat of continuing infringement has caused, and will continue to cause Plaintiff repeated and irreparable injury. It would be difficult to ascertain the amount of money damages that would afford Plaintiff adequate relief at law for Shein's acts and continuing acts. Plaintiff's remedy at law is not adequate to compensate it for the injuries already inflicted and further threatened by Shein. Accordingly, Plaintiff is entitled to preliminary

and permanent injunctive relief pursuant to 17 U.S.C. § 502, and to an order under 17 U.S.C. § 503 and 28 U.S.C. § 1651(a) that the infringing copies of Dellamorte's ANATOMICAL HEART VASE, and all molds or such other mechanisms by which such infringing copies were produced, be seized, impounded and destroyed.

60. Plaintiff is entitled to attorney's fees and costs. 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief against Shein as follows:

- a. for a judgment that Shein has infringed upon Plaintiff's copyright in Dellamorte's ANATOMICAL HEART VASE;
- b. for an award of Plaintiff's actual damages and Shein's profits, pursuant to 17 U.S.C. § 504(b), in an amount to be proven at trial for willful copyright infringement of the original home decor design of Dellamorte's ANATOMICAL HEART VASE under 17 U.S.C. § 501(a);
- c. in the alternative to Plaintiff's actual damages and Shein's profits pursuant to 17 U.S.C. § 504(b), for statutory damages of up to \$150,000 per infringement pursuant to 17 U.S.C. § 504(c) for willful copyright infringement, which Plaintiff may elect prior to final judgment;
- d. for a temporary, preliminary and permanent injunction prohibiting Shein or its agents, and any employees, agents, servants, officers, representatives, directors, attorneys, successors, affiliates, assigns and entities owned or controlled by Shein, and all those in active concert or participation with Shein, and each of them who receives notice directly or indirectly of such injunction from:
 - i. manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and otherwise dealing in infringing products including the Infringing Product;
 - ii. secreting, destroying, altering, removing, or otherwise dealing with the Infringing Product or any books or records that contain any information relating to manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and otherwise using infringing products including the Infringing Product;
 - iii. instructing, aiding or abetting any other person or entity in engaging in or performing any of the activities referred to in the foregoing subparagraphs.
- e. For an order of the Court requiring that Shein recall from any distributors and

retailers and deliver up to Plaintiff for destruction any infringing products including the Infringing Product and any and all advertising and promotional materials and any other materials in the possession, custody or control of such distributors and retailers that infringe any of Plaintiff's copyrights or other rights;

- f. For an order of the Court requiring that Shein provide complete accountings for any and all monies, profits, gains and advantages derived by Shein from its manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, sale and otherwise dealing in infringing products including the Infringing Product, including prejudgment interest;
- g. For Plaintiffs' reasonable attorneys' fees;
- h. For all costs of suit; and
- i. For such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff respectfully demands trial by jury on all issues so triable in accordance with Fed.

R. Civ. P. 38.

Dated: May 01, 2023
Morristown, New Jersey

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